



# Staff Report

---

**Report No.:** PWE 22-2019  
**Meeting Date:** June 19, 2019  
**Submitted by:** Jake Straus, C.E.T. – Transportation Manager  
**Subject:** Municipal Drain Process

---

**Recommendation:**

THAT the Municipal Drain Process Report in accordance with the Drainage Act be received for information.

**Purpose:**

To inform Council of the Municipal Drain Process.

**Background:**

**Petition Drain (Section 4)**

Under the Drainage Act, landowners wishing to obtain drainage must submit, to the Municipality, a Petition for Drainage Works.

A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by,

- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;
- (b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;
- (c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part.
- (d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director.

Where the council of the initiating municipality has decided to proceed with the drainage works described in a petition, the council shall by by-law or resolution appoint an engineer to make an examination of the area requiring drainage as described in the petition and to prepare a report which shall include,

- (a) plans, profiles and specifications of the drainage works, including a description of the area requiring drainage;
- (b) an estimate of the total cost thereof;

## Staff Report

---

- (c) an assessment of the amount or proportion of the cost of the works to be assessed against every parcel of land and road for benefit, outlet liability and injuring liability;
- (d) allowances, if any, to be paid to the owners of land affected by the drainage works; and
- (e) such other matters as are provided for under the Drainage Act.

Once the Engineer has completed the report, it is filed with the Clerk of the initiating municipality and brought to council to be considered.

The council of the initiating municipality at the meeting shall consider the report, and, where the drainage works is requested on petition, shall give an opportunity to any person who has signed the petition to withdraw from it by filing a signed withdrawal with the clerk and shall also give those present owning lands within the area requiring drainage who have not signed the petition an opportunity to do so, and should any of the lands or roads owned by the municipality within the area requiring drainage as described in the petition be assessed, the council may by resolution authorize the head of the municipality to sign the petition for the municipality, and such signature counts as that of one person in favour of the petition.

If, at the end of such council meeting, the petition contains a sufficient number of names to comply with section 4 of the Drainage Act, the council may proceed to adopt the report, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw.

If a by-law in the form prescribed by the regulations, with the engineer's report attached to it, is given two readings by council, the report shall be considered to be adopted and the by-law shall be known as a provisional by-law.

The council of the initiating municipality shall, within five days after the adoption of the report, send a copy of the provisional by-law, exclusive of the engineer's report, and a notice of the time and place of the first sitting of the court of revision to every other local municipality in which any land or road is assessed for the drainage works or for which allowance or compensation has been provided for in the report.

The council of the initiating municipality and of every local municipality to whom a copy of the provisional by-law is sent shall, within thirty days after the adoption of the report, send a copy of the provisional by-law, exclusive of the engineer's report, and a notice of the time and place of the sitting of the court of revision to each person or body involved in the report and the notice shall inform each owner that the owner may appeal the owner's assessment to the court of revision by a notice given to the clerk of the initiating municipality not later than ten days prior to the first sitting of the court of revision.

The first sitting of the court of revision shall be held on a day not earlier than twenty nor later than thirty days from the date of completing the sending of the copies of the provisional by-law.

# Staff Report

---

Where the council of an initiating municipality has adopted a report for the construction of a drainage works after the time for appealing has expired and there are no appeals or after all appeals have been decided, the council may pass the provisional by-law to which the engineer's report was attached, thereby authorizing the construction of the drainage works, and work may be commenced ten days after the by-law is passed if no notice of intention to make application to quash the by-law has been filed with the clerk of the council.

## **Request for Drainage Improvement (Section 78)**

If a drainage works has been constructed under a by-law passed under this Act or any predecessor of this Act, and the council of the municipality that is responsible for maintaining and repairing the drainage works considers it appropriate to undertake one or more of the projects listed below for the better use, maintenance or repair of the drainage works or of lands or roads, the municipality may undertake and complete the project in accordance with the report of an engineer appointed by it and without the petition mentioned above. This is referred to as a Request for Drainage Improvement and are inclusive of any of the following projects:

1. Changing the course of the drainage works.
2. Making a new outlet for the whole or any part of the drainage works.
3. Constructing a tile drain under the bed of the whole or any part of the drainage works.
4. Constructing, reconstructing or extending embankments, walls, dykes, dams, reservoirs, bridges, pumping stations or other protective works in connection with the drainage works.
5. Otherwise improving, extending to an outlet or altering the drainage works.
6. Covering all or part of the drainage works.
7. Consolidating two or more drainage works.

A Request for Drainage Improvement follows the same Engineer's Report process and Council proceedings as a Petition Drain, minus the requirement for sufficiency of petition as mentioned above. Landowners are still provided the same means to appeal is provided in a Section 4 Petition.

### **Analysis:**

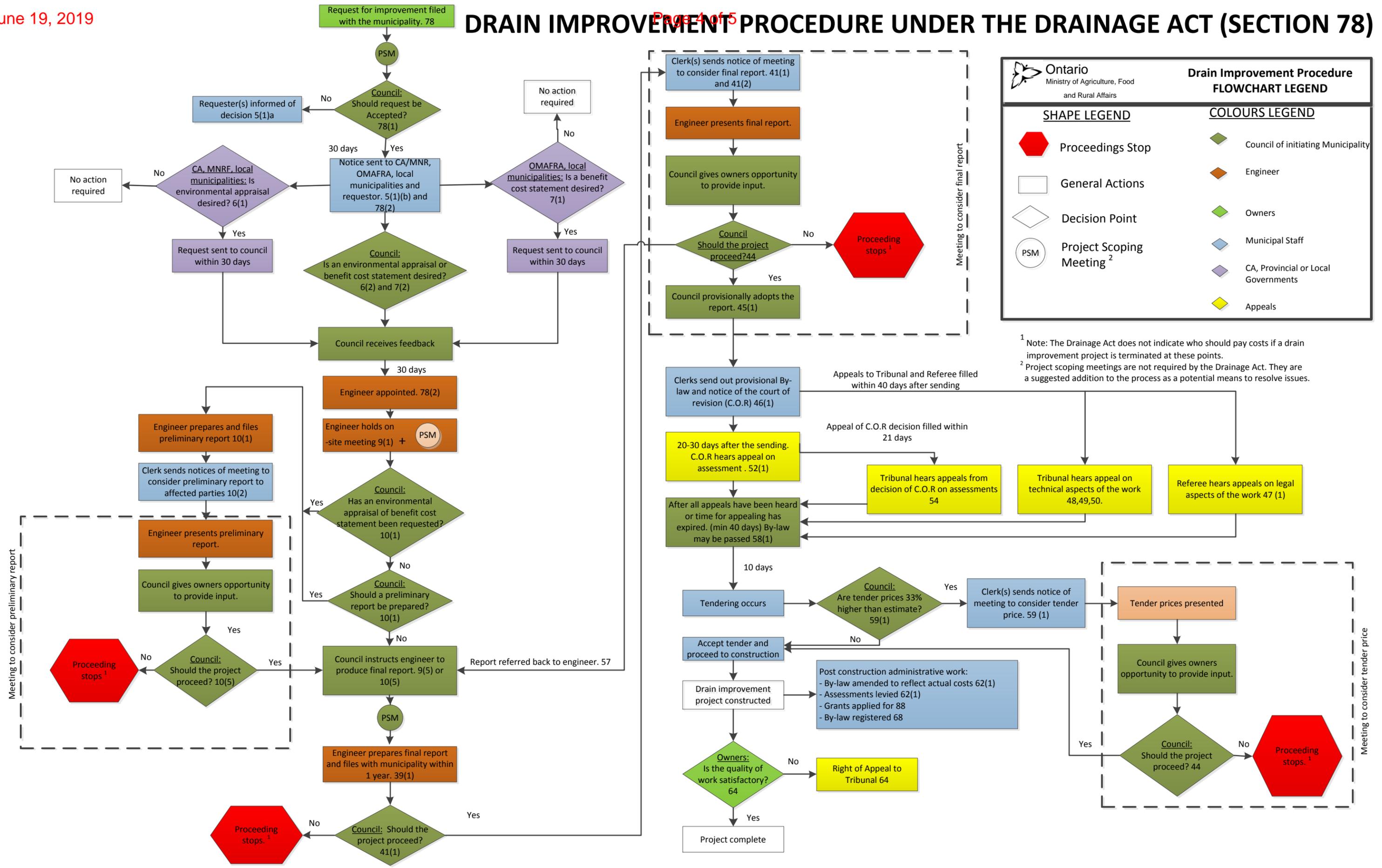
Procedures for Section 78 and Section 4 under the Drainage Act are included in the Appendices attached.

### **Financial Implications:**

N/A

Dan Anderson – Drainage Superintendent, has provided information for this report.

# DRAIN IMPROVEMENT PROCEDURE UNDER THE DRAINAGE ACT (SECTION 78)



**Ontario**  
Ministry of Agriculture, Food and Rural Affairs

**Drain Improvement Procedure**  
**FLOWCHART LEGEND**

SHAPE LEGEND		COLOURS LEGEND	
	Proceedings Stop		Council of initiating Municipality
	General Actions		Engineer
	Decision Point		Owners
	Project Scoping Meeting <sup>2</sup>		Municipal Staff
			CA, Provincial or Local Governments
			Appeals

<sup>1</sup> Note: The Drainage Act does not indicate who should pay costs if a drain improvement project is terminated at these points.  
<sup>2</sup> Project scoping meetings are not required by the Drainage Act. They are a suggested addition to the process as a potential means to resolve issues.

Meeting to consider preliminary report

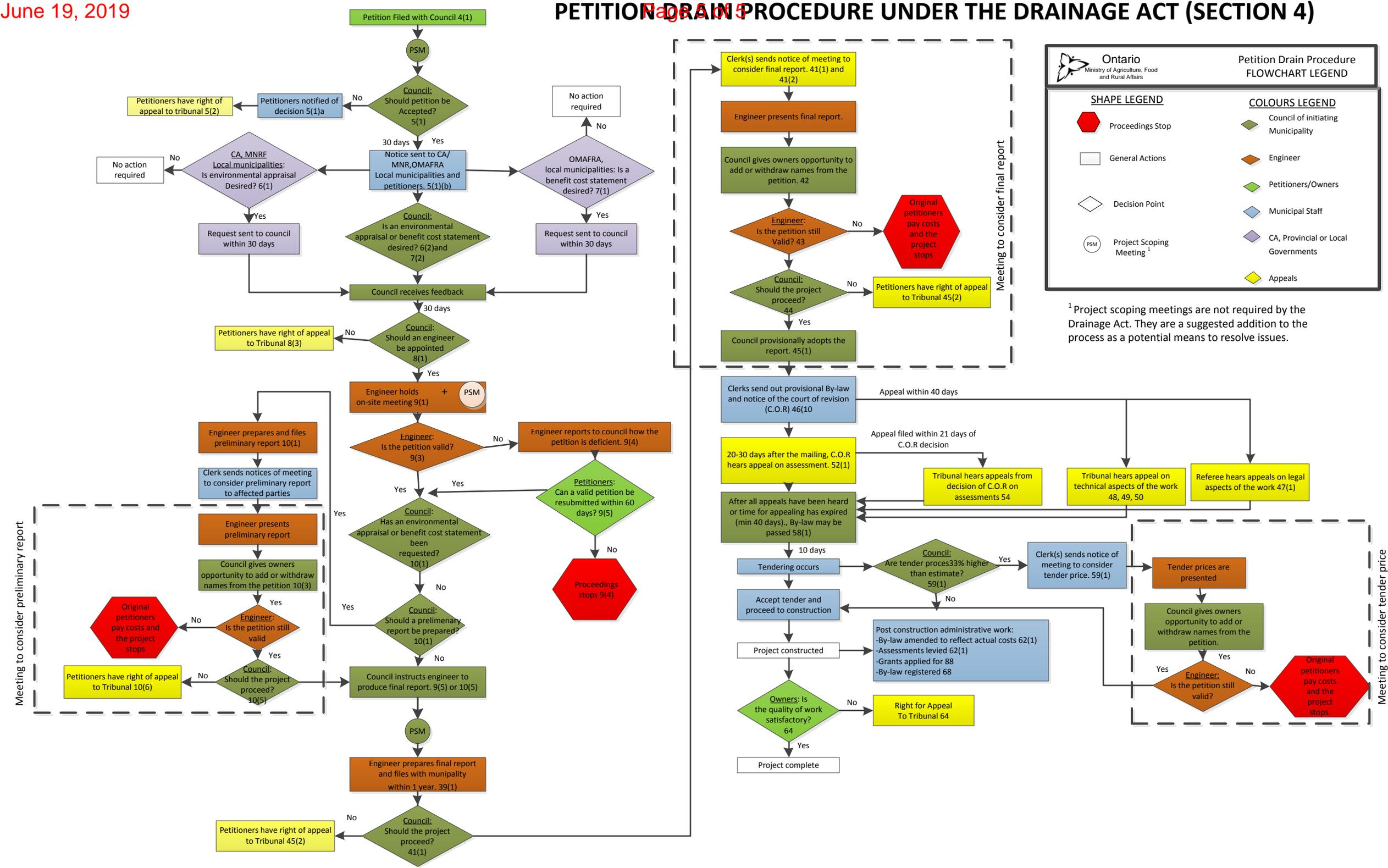
Meeting to consider final report

Meeting to consider tender price

Post construction administrative work:

- By-law amended to reflect actual costs 62(1)
- Assessments levied 62(1)
- Grants applied for 88
- By-law registered 68

# PETITION DRAIN PROCEDURE UNDER THE DRAINAGE ACT (SECTION 4)



Ontario  
Ministry of Agriculture, Food and Rural Affairs

Petition Drain Procedure  
FLOWCHART LEGEND

SHAPE LEGEND		COLOURS LEGEND	
	Proceedings Stop		Council of Initiating Municipality
	General Actions		Engineer
	Decision Point		Petitioners/Owners
	Project Scoping Meeting <sup>1</sup>		Municipal Staff
			CA, Provincial or Local Governments
			Appeals

<sup>1</sup> Project scoping meetings are not required by the Drainage Act. They are a suggested addition to the process as a potential means to resolve issues.